

Appln No. 10/816,396
Amdt date February 22, 2010
Reply to Office action of September 22, 2009

REMARKS/ARGUMENTS

In the Office action dated September 22, 2009, the Examiner rejected claims 1-4, 7, 13, 17-20, 22, 31, 34 and 35 under 35 U.S.C. §103(a) as allegedly obvious over Diederich, et al. (U.S. Patent No. 6,117,101) in view of Maguire, et al. (U.S. Patent No. 6,514,249) and Abele (U.S. Patent No. 5,860,974). In response, Applicant has amended independent claims 1 and 32 to remove features that are not necessary for patentability, and to recite that the expanded configuration of the framework has a variable shape that changes to conform to nonuniformly shaped tubular regions (or to differently shaped interior volumes of nonuniformly-shaped tubular regions in claim 32). None of Diederich, Maguire and Abele teach or suggest these features. Instead, Diederich appears to disclose a cage 650 having wires with an outward radial *bias* that form a *predetermined* shape in the radially expanded position. Column 26, lines 26-61. Although Diederich appears to disclose that the predetermined shape may have a taper, the shape is *predetermined*, and Diederich nowhere teaches or suggests that the radially expanded position of the cage 650 has a *variable* shape that changes to conform to nonuniformly shaped tubular regions. Accordingly, independent claims 1 and 32, and all claims dependent therefrom, including claims 2-4, 7, 13, 17-20, 22, 31, 34 and 35, and new claims 36 and 37, are allowable over Diederich, Maguire and Abele.

Also, Applicant has added new independent claim 38, reciting that the expanded configuration of the framework has a variable shape in which the length and circumference vary interdependently to each other to conform to differently shaped surrounding volumes. None of Diederich, Maguire and Abele, either alone or in combination, teach or suggest this feature. As noted above, Diederich appears to disclose a cage having a *predetermined* shape in the radially expanded position. Therefore, new claim 38 is also allowable over Diederich, Maguire and Abele.

The Examiner also rejected claims 11, 12, 14, 15, 21, 32 and 33 under 35 U.S.C. §103(a) as allegedly obvious over Diederich, Abele and Maguire in view of one or more of Webster, Jr.

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(U.S. Patent No. 5,772,590)(“Webster '590”), Edwards, et al. (U.S. patent No. 5,471,982), Webster, Jr. (U.S. Patent No. 6,183,463)(“Webster '463”), and an alternate embodiment of Diederich. However, claim 32 is allowable over Diederich, Abele and Maguire as discussed above, and each of claims 11, 12, 14, 15, 21 and 33 depends from independent claim 1, which is also allowable over Diederich, Abele and Maguire as discussed above. None of Webster '590, Edwards, Webster '463 and the referenced alternate embodiment of Diederich remedy the deficiencies of Diederich, Abele and Maguire, as none of these references teach or suggest that the expanded configuration of the framework has a variable shape that changes to conform to nonuniformly shaped tubular regions. Accordingly, independent claims 1 and 32, and all claims dependent therefrom, including claims 11, 12, 14, 15, 21 and 33, and new claims 36 and 37, are allowable over Diederich, Abele, Maguire, Webster '590, Edwards and Webster '563.

Also, none of Diederich, Abele, Maguire, Webster '590, Edwards, Webster '463 and the referenced alternate embodiment of Diederich, either alone or in combination, teach or suggest the features of new independent claim 38. Accordingly, new independent claim 38 is also allowable over Diederich, Abele, Maguire, Webster '590, Edwards and Webster '563.

Claims 1-4, 7, 11-15, 17-22 and 31-38 are now pending in this application. By this amendment, Applicant has amended independent claims 1 and 32 to remove elements that are not necessary for patentability and to place the claims in condition for allowance, and added new claims 36-38. The amendments and new claims find full support in the original specification, claims and drawings, for example, at page 9, lines 17-29. No new matter is presented. In light of the above amendments and remarks, Applicant submits that all of pending claims 1-4, 7, 11-15, 17-22 and 31-38 are in condition for allowance. Applicant therefore respectfully requests reconsideration and a timely indication of allowance. However, if there are any remaining issues

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that can be addressed by telephone, Applicant invites the Examiner to contact Applicant's counsel at the number indicated below.

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

By



Lauren E. Schneider
Reg. No. 63,712
626/795-9900

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